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TAGS: [FAIR](#) [IN](#)  
SUBJECT: CIVAIR INDIA: GROUND HANDLING DEMARCHE

REF: NOVEMBER-DECEMBER 2008  
LIMAYE-DAVIS--HATLEY--ASHWORTH--SHAH EMAILS

¶1. This is an action message ) please see para 9.

SUMMARY

¶2. Washington agencies have learned, through Post and media reporting, that the Government of India plans to implement a new ground handling policy at major metropolitan airports in India. We understand the proposed Indian regulations would prohibit many air carriers, including those from the U.S., from performing their own ground-handling services, as well as limit the number of ground-handling agents allowed to provide services at those airports. Washington agencies are concerned that the new regulations may be inconsistent with self-handling rights already accorded to U.S. carriers in our 2005 Open Skies Air Transport Agreement. The rules could also adversely affect ground handling arrangements U.S. carriers have with existing providers at certain airports. Washington agencies request Post immediately demarche the Indian government and request that any new regime incorporate and protect the rights of U.S. carriers under our agreement. End Summary.

OBJECTIVES

¶3. Department instructs Embassy to pursue the following objectives:

-- Remind the Government of India that under our 2005 Air Transport Agreement, all U.S. carriers have the right to perform their own ground handling;

-- Also remind the Government of India that the 2005 Agreement requires that U.S. carriers be able to select among competing ground handling agents for handling services, and that this right and the self-handling right may only be subject to physical constraints resulting from considerations of airport safety;

-- Request that the Indian government, in adopting any new rules on ground handling, do so in a manner that protects the rights guaranteed to U.S. airlines under our agreement.

-- Ask the GOI for a copy of the proposed regulations on ground handling and ask when it intends to implement them.

REPORTING DEADLINE AND POINT OF CONTACT

¶4. Embassy should report results of efforts by December 24 to EEB/TRA/AN. Post may also wish to e-mail the response to Viki Limaye-Davis at Limaye-DavisVV@state.gov, and Steven Hatley at Steven.Hatley@dot.gov.

## BACKGROUND

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¶ 15. A liberal provision on ground handling, an essential element of Open Skies, was one of the most contentious issues in the negotiation of our Open Skies Air Transport Agreement with India ("Agreement"), which entered into force on June 21, 2005. Under transitional terms in the Agreement, India committed to allow all U.S. carriers to perform their own ground handling no later than January 15, 2007. Ground handling rights for U.S. carriers in India are governed by Article 8, paragraph 3 of the Agreement, which states that "(e)ach designated airline shall have the right to perform its own ground-handling in the territory of the other Party ("self-handling") or, at its option, select among competing agents for such services in whole or in part. The rights shall be subject only to physical constraints resulting from considerations of airport safety. Where such considerations preclude self-handling, ground services shall be available on an equal basis to all airlines; charges shall be based on the costs of services provided; and such services shall be comparable to the kind and quality of services as if self-handling were possible."

¶ 16. Ground handling is the term used to describe a wide range of services that airlines require in order to service

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aircraft on the ground and handle movements of passengers, aircraft and cargo. Passenger-handling includes check-in, boarding, staffing of customer service and ticket counters and lounges and general customer and flight information services. Ramp-handling includes activities such as baggage handling, fueling, cleaning, catering, and pushback or towing, and cargo-handling includes loading and unloading cargo, storage and warehousing, customs handling and document control. The right to self-handle does not, however, include the right for U.S. carriers to ground handle for other airlines.

¶ 17. (SBU) Several U.S. carriers have expressed concerns about the proposed rule, either because they already self-handle for some of their ground handling requirements in India or because the rule could impact handling arrangements with their existing service suppliers. Self-handling rights can be particularly important for express delivery providers like FedEx and UPS, which have unique requirements based upon the time-sensitive nature of their cargo, money-back guarantees for late delivery, and the sophisticated, proprietary systems they employ for tracking and sorting packages. FedEx self-handles in India and describes the ability to do so as a critical part of its business model. Local FedEx reps have met with various Indian government agencies, including the Civil Aviation Authority, to make their concerns known, but have received no assurances that FedEx will be able to self-handle after the new rules come into effect. While UPS does not currently self-handle in India, it would like the flexibility to do so in the future. Delta Air Lines informed Washington agencies that while Air India provides its ramp handling in Mumbai, Delta self-handles "above-wing" passenger services through a joint venture, and not being allowed to continue doing so could mean handing over such operations to a company that will not provide Delta customers with the level of service they require. Continental Airlines does not currently self-handle but has two concerns: first, the company wishes to retain the flexibility to self-handle for passenger services, and second, repeated delays in implementing new rules have made it difficult for the company to change providers at Delhi and Mumbai, due to uncertainty as to who will be allowed to handle at those airports.

¶ 18. Washington agencies raised concerns about changes in regulations on ground handling with Government of India officials during a May 2008 meeting in Washington with then-Secretary for Aviation, Ashok Chawla, Airports Authority

of India Board Member P. Seth, DG of Civil Aviation R.P. Sahi, and Banashri Harrison from the Indian Embassy. At the meeting, the Department of Transportation's Acting Assistant Secretary for Aviation and International Affairs, Michael Reynolds, asked for clarification of the proposed rules. Secretary Chawla indicated that the GOI was still mulling over options and considering requests from domestic airlines, but that it was likely self-handling would not be allowed by foreign airlines. Reynolds told the Indians that, pursuant to the U.S.-India Open Skies agreement, U.S. carriers have the right to self-handle and that new regulations should give U.S. carriers the opportunity to take full advantage of their rights under that agreement. Reynolds indicated that the U.S. would likely seek further discussions on the topic as the GOI's decision making process neared completion. While Washington agencies have yet to see the official regulations, a GOI circular (conveyed in Ref e-mails) indicates the GOI will institute the new regulations by January 1, 2009.

ACTION REQUEST

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¶9. Washington agencies request that Post demarche GOI aviation authorities at the appropriate levels as soon as possible, drawing on the above information and the following talking points, which may be left as a non-paper, and inform them of our concern that the proposed ground handling rules appear inconsistent with the terms of our 2005 Open Skies Air Transport Agreement. Washington agencies further request that Post ask the GOI for a full copy of the draft regulations and its timeline for their implementation, and urge the GOI to ensure that any new rules preserve the ground handling rights guaranteed to U.S. airlines under our Open Skies agreement.

¶10. Begin talking points:

-- The United States is concerned that proposed new regulations on ground handling at India's six metropolitan airports (Delhi, Mumbai, Chennai, Kolkata, Bangalore and Hyderabad), as well as greenfield airports under

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construction, would prohibit self-handling by foreign carriers.

-- Under transitional terms in the 2005 United States ) India Air Transport Agreement ("Agreement"), India committed to allow all U.S. carriers to perform their own ground handling no later than January 15, 2007.

-- Article 8, Paragraph 3 of that agreement states that "(e)ach designated airline shall have the right to perform its own ground handling in the territory of the other Party ("self-handling") or, at its option, select among competing agents for such services in whole or in part. The rights shall be subject only to physical constraints resulting from considerations of airport safety..."

-- Allowing carriers the freedom to self-handle is an important step toward creating a pro-competitive environment for international air services and is an essential element of Open Skies.

-- The new regulations appear to be in violation of the rights of U.S. carriers under the Agreement.

-- Some U.S. carriers are already providing some of their own ground handling services, at airports that would be subject to the proposed regulations. For these carriers, a prohibition on self-handling would pose considerable disruption to their operations and could lead to job losses in India. U.S. carriers that do not currently self-handle for their India operations must retain the flexibility to do so in the future.

-- Of course, self-handling rights do not give U.S. carriers the right to perform ground handling services for other airlines.

-- The United States Government raised its concerns on ground handling during a May 2008 meeting in Washington with then-Secretary for Aviation Ashok Chawla, Airports Authority of India Board Member P. Seth and DG of Civil Aviation R.P. Sahi. At least one U.S. carrier has also raised its concerns with various agencies, including the Indian Civil Aviation Authority.

-- However, neither the United States Government nor the affected U.S. carriers have received any indication that the Government of India will revise the proposed regulations to permit U.S. airlines to continue or, at their option, commence providing their own ground handling, should they wish to do so.

-- The United States requests an update on the Government of India's timing for revision of current ground handling rules. When do you anticipate implementation of the new rules?

-- We also request details on what specific aspects of ground handling services will be affected. Is it intended that the new rules will apply to both "above wing" services (i.e., all aspects of passenger handling) as well as "below wing" operations, including all aspects of cargo handling?

-- United States Government agencies would also appreciate receiving a copy of the proposed regulations. It is our intention to continue monitoring implementation of the new rules to ensure that U.S. carrier rights under the Agreement are protected.

End talking points.

¶11. Washington agencies appreciate Post's assistance.  
RICE